IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

LA.App..No. 1379 of 2005(D)

LAR.305/1993 of PRINCIPAL SUB COURT,KOLLAM

APPELLANT: CLAIMANTS 2,4,6 TO 8:

1. MURALEEDHARAN UNNITHAN,
   MURALEE MANDIRAM, EDAKKADU P.O., PORUVAZHY,
   NOW RESIDING AT KALAMITTATHIL, PONGALADI,
   PARANTHAL P.O., PANDALAM THEKKEKARA,
   PATHANAMTHITTA DISTRICT.

2. SANTHAKUMARI AMMA,
   KUNNILAPADINJATTATHIL, VATHIKKULAM THEKKEKARA P.O.
   MAVELIKKARA.

3. SYAMALAKUMARI AMMA,
   KRISHNAVILASOM, PALLIKKAL THEKKEKKARA P.O.,
   MAVELIKKARA.

4. SOBHANAKUMARI AMMA,
   ASABHAVANAM, PAZHAKULAM, PAZHAKULAM P.O., ADOOR.

5. SHEEJAKUMARI AMMA,
   CHEMPILAPARAMBIL VEEDU, KOODAL P.O.
   APPELLANTS 2 TO 5 ARE REPRESENTED BY THE 1ST
   APPELLANT, POWER OF ATTORNEY HOLDER. ORIGINAL
   POWER OF ATTORNEY HAS BEEN PRODUCED BEFORE THE
   COURT BELOW AS EXT.P6.

BY ADV. SRI.B.SURESH KUMAR

RESPONDENTS: RESPONDENT & CLAIMANTS 3 & 5:

1. THE STATE OF KERALA.

2. VISWANATHAN UNNITHAN
(VISWA BHAVANAM) MURALEE MANDIRAM,
EDAKKADU P.O., PORUVAZHY.

3. RAJAN UNNITHAN,
MURALEE MANDIRAM, EDAKKADU P.O., PORUVAZHY.

ADDL.R4 IMPLEADED:

4. THE KERALA WATER AUTHORITY, REPRESENTED BY ITS
MANAGING DIRECTOR.

ADDL.R4 IS IMPLEADED VIDE ORDER ON LAA, DATED 17.7.2006

R2 BY ADV. SMT.M.A.THASNIM
ADDL.ADVOCATE GENERAL
BY ADV. SRI.C.RASHEED, SC, KWA
ADDL.R4 BY ADV. SRI.M.DINESH, SC, KWA
R1 BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/01/2007, ALONG WITH LAA NO. 1331 OF 2005 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T. SANKARAN, J.

L.A.A.NOS.1331 & 1379 OF 2005

Dated this the 8th day of January,2007

JUDGMENT

These appeals arise out of L.A.R.Nos.304 of 1993 and 305 of 1993, on the file of the Court of the Principal Subordinate Judge of Kollam. These Land Acquisition Appeals are filed by the claimants, dissatisfied with the enhancement of compensation granted by the court below.

2. The acquisition was made for the Kerala Water Authority. The requisitioning authority, namely, Kerala Water Authority, was not made a party to the proceedings before the court below. As held in **Abdul Rasak and others** v. **Kerala Water Authority and others** ((2002) 3 SCC 228), the requisitioning authority is a proper party and is entitled to be impleaded in the proceedings before the Reference Court. It was held by the Supreme Court, applying the Constitution Bench decision in **U.P.Awas Evam Vikas Parishad** v. **Gyan Devi**

((1995) 2 SCC 326) that reference cases are liable to be remitted to the Court as the requisitioning authority shall be impleaded as a party to the proceedings from the very beginning. It was also held that merely because the requisitioning authority had knowledge about the proceedings, non-issuance of notice of the proceedings to the requisitioning authority cannot be justified. I do not propose to consider the merits of the case in these appeals since, going by the Supreme Court decision, the requisitioning authority should be made a party to the proceedings before the Reference Court. Necessarily, the judgment under challenge has to be set aside and the matter has to be remitted to the Reference Court for a fresh disposal after impleading the Kerala Water Authority as a party to the proceedings. In L.A.A.NO.1379 of 2005, at the time of admission of the appeal, The Managing Director of the Kerala Water Authority was suo motu impleaded.

3. In the result, the judgment and decree under challenge in these appeals are set aside and the matter

is remitted to the court below for fresh disposal. The requisitioning authority, namely, Kerala Water Authority, shall be impleaded as additional respondent in both the Land Acquisition References. The requisitioning authority shall be given an opportunity to file a statement and to put forward their contentions in the case. The claimants are also entitled to adduce such relevant evidence as they wish to adduce. The Reference Court shall dispose of the Land Acquisition References within a period of six months.

The Land Acquisition Appeals are allowed as indicated above.

Refund the court fee to the appellants.

(K.T.SANKARAN)
Judge

ahz/